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David J. Smith, Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth St., N.W.
Atlanta, GA 30303

RE: *United States v. Ervin & Hoover*, No. 23-13062 Fed. R. App. P. 28(j)
Supplemental Authority Letter

Dear Mr. Smith:

The following decision supports Appellants' argument that the district court erred in failing to dispose of this case on Second Amendment grounds. *See* App. Doc. 26 § V (Appellant Hoover's brief).

United States v. Justin Bryce Brown, No. 3:23-CR-123-CWR-ASH, 2025 WL 429985 (S.D. Miss. Jan. 29, 2025) saw machinegun charges against a defendant dismissed on Second Amendment grounds where, as here, the Defendant filed a motion to dismiss on as-applied Second Amendment grounds and the government responded by averring that machineguns are "dangerous and unusual," without identifying a historical analogue save for the statute of Northampton.

The *Brown* decision rightly dismissed the claims brought by Defendant both with respect to the government's failure to produce a historical analogue, and the dispensing with the government's "dangerous and unusual" invocation.

The district court in *Brown* observed that decisions like the District Court's below relied exclusively on pre-*Bruen* caselaw, despite every appellate court's "prior precedent" being rendered "obsolete." *Id.* at 2-3. In faithfully applying *Bruen*'s command, and observing that the Court "cannot go looking for facts that have not been presented before it[]" it found that "*Bruen* specifically requires judges to follow 'history and tradition,' evaluate whether new laws are 'relevantly similar' to past laws, and determine whether certain firearms are 'dangerous and unusual.'" *Id.* at 7. The argument found to be lacking in *Brown* is in all material respects identical to the argument brought by the government below in opposing Appellant's motion to dismiss. Appellant feels it important to note the items charged in *Brown* were functional machineguns, as opposed to the non-functional items charged here.

Very truly yours,



Matthew Larosiere, Esq.
Counsel for Appellant
Matthew Raymond Hoover

Certificate of Service

I certify that a copy of the foregoing was sent by CM/ECF on February 14, 2025, and notice of this filing was electronically served on all parties there registered for service, including:

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/s/ Matthew Larosiere
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